

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
 v.) CRIMINAL NO. 04-10129-RCL
)
 MARK MCARDLE,)
 Defendant.)

MOTION FOR FINAL ORDER OF FORFEITURE

The United States of America, by its Attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully moves that this Court issue a Final Order of Forfeiture in the above-captioned case, pursuant Title 21, United States Code, Section 853, and Rule 32.2(b) of the Federal Rules of Criminal Procedure. A proposed Final Order of Forfeiture is submitted herewith. In support thereof, the United States sets forth the following:

1. On April 22, 2004, a federal grand jury sitting in the District of Massachusetts returned a twelve count Indictment charging defendant Mark McArdle (the "Defendant"), and others, with crimes including the following drug trafficking crimes: Conspiracy to Distribute Oxycodone, in violation of 21 U.S.C. § 846 (Count One); Conspiracy to Import Oxycodone, in violation of 21 U.S.C. § 963 (Count Two); Conspiracy to Distribute Marijuana, in violation of 21 U.S.C. § 846 (Count Three); Attempted Possession with Intent to Distribute Marijuana, in violation of 21 U.S.C. § 846 (Count Four); Conspiracy to Distribute Controlled Substances including Cocaine and Marijuana,

in violation of 21 U.S.C. § 846 (Count Seven); Attempted Possession with Intent to Distribute, and Distribution of, Cocaine, in violation of 21 U.S.C. § 846 (Counts Eight, Nine and Eleven); and Distribution of Cocaine, in violation of 21 U.S.C. § 841(a)(1) (Count Ten).

2. The Indictment contained a drug trafficking forfeiture allegation, which sought the forfeiture, upon conviction of the offenses alleged in Counts One through Four and Seven through Ten of the Indictment, of any and all property constituting, or derived from, any proceeds the Defendant obtained, directly or indirectly, as a result of such violations; and any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violations, pursuant to 21 U.S.C. § 853. The property to be forfeited includes, but is not limited to, the following:

- a) the real property located at 10 Jana Lane, Stratham, New Hampshire (the "Jana Lane Property")¹.

3. On October 17, 2006, the Defendant pled guilty to each of the Counts of the Indictment in which he was named, including Counts One through Four and Seven through Ten of the Indictment, pursuant to a written plea agreement (the "Agreement"). In the Agreement, the Defendant admitted that the Jana Lane Property was

¹The Jana Lane Property was incorrectly identified in the Indictment and subsequent documents as 10 "Jena" Lane.

subject to forfeiture on the grounds that it was proceeds of the Defendant's unlawful drug activity, and consented to the forfeiture of any and all of his interest in the Jana Lane Property.

4. On February 21, 2007, this Court issued a Preliminary Order of Forfeiture, pursuant to 21 U.S.C. § 853, and Rule 32.2 of the Federal Rules of Criminal Procedure, against the Defendant's interest in the Jana Lane Property (Document No. 92).

5. On April 4, 2007, April 11, 2007, and April 18, 2007, a Notice of Order of Forfeiture was published in the Manchester Union Leader newspaper pursuant to 21 U.S.C. § 853(n) (see Document Number 106).

6. On April 18, 2007, East Boston Savings Bank ("EBSB") filed a Petition for Adjudication of the Validity of its Interest in the Jana Lane Property (Document No. 102), and based on the EBSB Petition filing, the United States entered into an Expedited Settlement agreement with EBSB. Pursuant to the Expedited Settlement Agreement between EBSB and the United States, the United States shall pay any valid outstanding mortgages or liens on the Jana Lane Property in accordance with applicable law. Payment of the liens is contingent upon the United States receiving the proper documentation from EBSB.

7. To date, no other claims of interest in the Jana Lane Property have been filed with the Court and the time within which

to do so has expired.

WHEREFORE, the United States respectfully requests that this Court enter a Final Order of Forfeiture against the Jana Lane Property in the form submitted herewith.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

BY: /s/ Nancy Rue
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Date: July 25, 2007

CERTIFICATE OF SERVICE

This is to certify that the foregoing Motion for Final Order of Forfeiture and the proposed Final Order of Forfeiture, filed through the Electronic Case Filing system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Nancy Rue
Nancy Rue
Assistant U.S. Attorney

Date: July 25, 2007